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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/19/00 1574 COOL TOWEL TOWEL

00/06/006001

EXAMINER

0022/1214

KAREN L. ELBING FULTON
CLARK & ELBING LLP
175 FEDERAL STREET
BOSTON, MA 02110

ART UNIT	PAPER NUMBER
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1646
DATE MAILED:

09/19/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/365,576

Applicant(s)
Moore et al.

Examiner
Michael Pak

Group Art Unit
1646



☒ Responsive to communication(s) filed on Dec 27, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-27 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-27 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Election/Restriction

I. Restriction to one of the following inventions is required under 35 U.S.C. 121.

I. Claims 1-6, drawn to a method for determining whether a test protein is capable of interacting with a retinoid X receptor, classified in Class 435, subclass 7.1.

II. Claims 7, 8, 13-16, and 27, drawn an RXR-interacting protein R1P 14-1, classified in Class 530, subclass 350.

III. Claims 7, 9, 13-16, and 27, drawn an RXR-interacting protein R1P 14-2, classified in Class 530, subclass 350.

IV. Claims 7, 10, 13-16, and 27, drawn an RXR-interacting protein R1P 15, classified in Class 530, subclass 350.

V. Claims 7, 11, 13-16, and 27, drawn an RXR-interacting protein R1P 110, classified in Class 530, subclass 350.

VI. Claims 7, 12-16, and 27, drawn an RXR-interacting protein R1P 13, classified in Class 530, subclass 350.

VII. Claims 17-26, a DNA encoding RXR-interacting protein, a vector, a cell, a method of producing a recombinant RXR-interacting protein, classified in Class 439, subclass 69.1.

The inventions are distinct, each from the other because of the following reasons.

The products of inventions II-VII, are distinct each from the other, because they are drawn to products having materially

different structures and functions.

The methods of inventions I and VII are distinct, each from the other, because they are drawn to processes having materially different process steps, which are practiced for materially different purposes.

The products of inventions II-VI and the method of inventions I, are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MEP. § 306.05(h)). In the instant case the product of invention II can be used in any of the materially different processes of using the products such as the for generating antibodies.

The products of inventions VII and the method of inventions I, are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MEP. § 306.05(h)). In the instant case the product of invention I can be used in any of the materially different processes of using the products such as the for gene

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therapy, nucleic acid hybridization, protein purification, and generating antibodies.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their different classifications, recognized divergent subject matter, and the search required for any one of inventions I-VII is not required for any other invention I-VII, thus, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventership must be amended in compliance with 37 CFR 1.46(k) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventership must be accompanied by a filed petition under 37 CFR 1.43(b) and by the fee required under 37 CFR 1.17(h).

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pak, whose telephone number is (703) 305-7038. The examiner can normally be reached on Monday through Friday from 8:30 AM to 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (703) 308-6564.

Official papers filed by fax should be directed to (703) 308-4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-6244.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0190.

Michael D. Pak

Michael Pak

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9 March 2001